

### **Remarks**

This Amendment After Final is in response to the Final Office Action dated **September 13, 2007**. In the Final Office Action, claims 29, 30, 55, 56, 59, 60 and 62 were rejected under 35 USC 103(a) as being unpatentable over Gray et al (5895406) in view of Khosravi et al (5,824,054).

The following comments are presented in the same order, with section headings, as the Final Office Action.

### **35 USC 103**

In the Final Office Action, claims 29, 30, 55, 56, 59, 60 and 62 were rejected under 35 USC 103(a) as being unpatentable over Gray et al (5895406) in view of Khosravi et al (5,824,054).

Independent claim 29 recites in part, “the plurality of stretchable elements defining a plurality of first *cells* having a first configuration … a plurality of second cells … each of the plurality of second *cells* having a configuration different than the first configuration” (emphasis added).

Independent claim 55 as amended recites in part, “a plurality of stretchable first cells … each of the first cells having a first configuration … a plurality of second cells, each of the second cells having a second configuration, the second configuration different than the first configuration.” Applicant asserts that the amendment to claim 55 does not require a new search since similar amendments were previously made in independent claims 29 and 59. Therefore, Applicant requests that the amendment be entered and considered.

Similarly, independent claim 59 recites in part “a plurality of stretchable elements … defining a plurality of first cells, each of the plurality of first cells having a first configuration … a plurality of second cells, each of the plurality of second cells having a second configuration, the second configuration different than the first configuration.”

The Final Office Action asserts

[t]he examiner is interpreting the claimed elements “configuration” in this way: configuration is just an **arrangement of parts**. Thus, since adjacent rows of cells have different orientations or arrangements, the configurations are different”

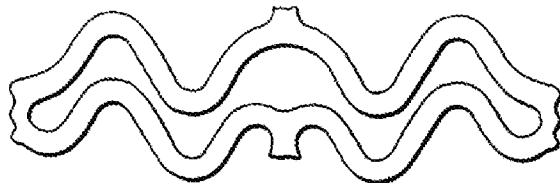
(emphasis in original).

The Final Office Action further asserts that

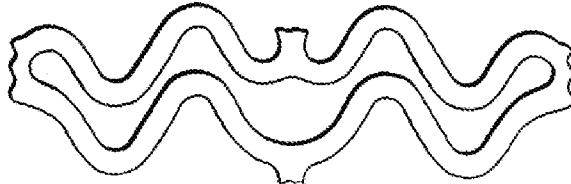
[t]he Examiner is entitled to give terms in a claim its plain meaning as interpreted by one of ordinary skill in the art. In this instance, the Examiner is interpreting “**configuration to mean an arrangement or orientation**”  
(emphasis added).

As to the assertion in the Final Office Action, that the plain meaning of configuration means “orientation,” Applicant requests that the basis for this interpretation be provided. For example, Applicant was unable to find any dictionary definitions of “configuration” using the term “orientation.”

Applicant notes that *a cell is not an arrangement of parts*, a cell is a space that is defined by an arrangement of parts. Thus, the configuration of a cell is the shape of the cell. Furthermore, Applicant submits that an arrangement of parts is not affected by the orientation of the arrangement of parts. This can be seen by comparing the figures below. The top figure is Fig. 3a of Gray and the bottom figure is Fig. 3a of Gray that has been rotated 180 degrees so that it has a different orientation from the original Fig. 3a. The arrangement of parts in Fig. 3a was not altered when the figure was rotated 180 degrees.



**FIG. 3a of Gray – cell A in annotated Fig. 6**



**FIG. 3a of Gray rotated 180 degrees – cell B in annotated Fig. 6**

As shown in annotated Fig. 6 of Gray, provided below, the stent in Gray consists

of cells A and B, which have the same arrangement of parts and therefore do not have different *configurations* as recited in independent claims 29, 55 and 59.

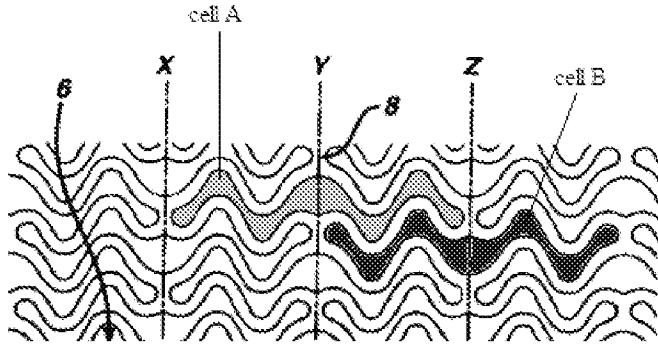


Fig. 6 of Gray

The addition of Khosravi, which is asserted to show a coiled sheet stent having a plurality of locking elements, does nothing to address the failure of Gray to teach or suggest all the elements of the instant claims. For at least these reasons, Applicant requests withdrawal of the rejection and asserts that claims 29, 30, 55, 56, 59, 60 and 62 are in condition for allowance.

### **Conclusion**

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 29, 30, 55, 56, 59, 60 and 62 is requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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